
Costs Decision

Site visit made on 12 December 2017

by Mrs J Wilson BA BTP MRTPI DMS

Inspector appointed by the Secretary of State

Decision date: 10th April 2018

Costs application in relation to Appeal Ref: APP/P5870/D/17/3179855 9 Hackbridge Road, Hackbridge, London SM6 7AY

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Dr Oscar Onyebuchi-uwudibia for a full award of costs against the Council of the London Borough of Sutton.
 - The appeal was against the refusal of planning permission for the variation of Condition 2 (use of approved garden annex for accommodation ancillary to the existing dwellinghouse only) of application C2016/73935/HHA¹ to allow for the garden annex to be used as a holiday let for less than 90 days a year.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The basis of this costs claim relates to the delay and refusal of planning permission. This has delayed the renting out of the main house to a family in need of an annex and has resulted in the loss of income. Planning Practice Guidance advises that irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The appellant states he made it clear to the Council that the application was to ensure no enforcement action could be taken in relation to the occupation of the annex by future tenants. Correspondence is referred to relating to advice on a request for non-material amendments and a response from the Council on the need to apply under Section 73 of the Town and Country Planning Act. Whilst I recognise that the appellant may be frustrated at the need to apply to have the condition varied, I have no evidence before me that the Council acted unreasonably or inappropriately during the course of the appeal or any evidence of wasted expense.
4. Consequently, it has not been demonstrated that the Council acted unreasonably and cause the appellant unnecessary additional expense in the appeal process and therefore an award of costs is not justified.

Janet Wilson

INSPECTOR

¹ It is noted that there is an inaccuracy in the refusal notice for the variation of condition 2 in that the first schedule refers to C2017/73935/HAA whereas the correct reference number is C2016/73935/HAA